

REMARKS

At the outset, Applicants request an interview to advance prosecution.

In the Office Action, the Examiner rejected claims 1-3, 6-8, 12-17, 35-38, and 42-45 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Application Publication No. 2001/0009552 to Parruck et al (Parruck) in view of U.S. Patent No. 6,219,728 to Yin and U.S. Patent No. 5,954,800 to Jung et al. (Jung); rejected claims 4 and 5 under 35 U.S.C. § 103(a) as unpatentable over Parruck, Yin, Jung, and U.S. Patent Application Publication No. 2004/0114516 to Iwata; and rejected claims 9, 10, 11, 39, 40, and 41 under 35 U.S.C. § 103(a) as unpatentable over Parruck, Yin, Jung, and U.S. Patent 6,789,056 to Vinnakota.

By this amendment, Applicants amends claims 1, 2, 35, and 46 to more clearly claim the features of those claims.

Claims 1-17 and 35-46 are currently pending in the application.

The Examiner rejected claims 1-3, 6-8, 12-17, 35-38, and 42-45 under 35 U.S.C. § 103(a) as unpatentable over Parruck in view of Yin and Jung. Applicants respectfully traverse this rejection.

Amended claim 1 recites a combination including, among other things, “allocating each received packet to at least one arrival queue, wherein each received packet comprises an internet protocol packet.”

Parruck discloses a scheduling system for cells in an asynchronous transfer mode (ATM) switch. The Examiner alleges that Parruck at FIG. 5, elements 402 and 404 discloses the “allocating,” feature recited in claim 1. But a careful scrutiny reveals that Parruck discloses an ATM switch which handles cells, not packets. Indeed, a

skilled artisan would recognize that Parruck's ATM switch would not be able to handle packets, and a device configured to handle packets would not be able to handle ATM cells. To make the distinction between cells and packets exceedingly clear, Applicants have amended claim 1 to recite "wherein each received packet comprises an internet protocol packet."

Moreover, given that Parruck is only operative with ATM cells, Parruck cannot disclose the queues recited in claim 1, much less the following features of claim 1: "placing each packet in the allocated arrival queue if said arrival queue is not full, otherwise dropping said packet; scheduling, by a scheduler coupled to the at least one arrival queue, packets from the arrival queue to at least one transfer queue; responsive to transfer of a packet to a transfer queue, generating an interrupt; responsive to receipt of an interrupt, allocating the packet from said transfer queue to one of a plurality of processor queues."

Furthermore, although Yin discloses shared memory and Jung discloses a network adaptor, neither Yin nor Jung cures the above-noted deficiencies of Parruck.

In view of the foregoing, claim 1 is allowable over Parruck, Yin, and Jung, whether taken alone or in combination, and the rejection under 35 U.S.C. § 103(a) of claim 1, as well as claims 2-3, 6-8, and 12-17 at least by reason of their dependency from independent claim 1, should be withdrawn.

Regarding the motivation to combine, the Examiner's modifications to the cited references fundamentally change the principal of operation of those references. A skilled artisan would recognize that Parruck's ATM system would not be operative using the packets of Jung or Yin. Indeed, Parruck's ATM system would require fundamental

changes to its principle of operation under the Examiner's proposed combination. Thus, the Examiner proposed combination not only changes the fundamental principle of operations of the cited references, but is inoperative. Indeed, M.P.E.P 2143.03 which states "[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)." See also *Ex parte Toftness*, Bd. Pat. App. & Int. 2008 (reversing Examiner's section 103 rejection because the combination would have yielded an inoperable device). Therefore, the rejection under 35 U.S.C. § 103(a) of the instant claims should be withdrawn for this additional reason.

Regarding claim 2, Applicants have re-written claim 2 in independent form including some of the features of claim 1. Applicants submit that neither Parruck, Yin, nor Jung discloses or suggest some of the structural features recited in claim 2 including, for example, "receiving a plurality of packets at one or more of a plurality of network devices coupled via one or more buses to at least one of a processor and a memory, ... allocating each received packet to at least one arrival queue, wherein the one or more of the plurality of network devices comprises a scheduler, the at least one arrival queue, and at least one transfer queue, wherein the at least one of the processor and the memory further comprises at least one of a plurality of processor queues, wherein the scheduler is further coupled to the at least one transfer queue." Therefore, claim 2 is allowable over Parruck, Yin, and Jung, whether taken alone or in combination, and the rejection under 35 U.S.C. § 103(a) of claim 2 should be withdrawn for this additional reason.

Independent claims 35 and 46, although of different scope, include some of the features noted above with respect to claim 1. For at least the reasons noted above, claims 35 and 46 are allowable over Parruck, Yin, and Jung, whether taken alone or in combination, and the rejection under 35 U.S.C. § 103(a) of claims 25 and 46, as well as claims 36-38 and 42-45 at least by reason of their dependency, should be withdrawn.

The Examiner rejected claims 4 and 5 under 35 U.S.C. § 103(a) as unpatentable over Parruck, Yin, Jung, and Iwata. Applicants respectfully traverse this rejection.

Claims 4-5 depend from claim 1 and includes all of the feature recited therein including, among other things, "allocating each received packet to at least one arrival queue, wherein the received packet is an internet protocol packet." For at least the reasons noted above with respect to claim 1, neither Parruck, Yin, nor Jung discloses or suggests the above-noted features. Moreover, although Iwata discloses a packet scheduler, it fails to cure the deficiencies of Parruck, Yin, and Jung. Therefore, claims 4-5 are allowable over Parruck, Yin, Jung, and Iwata, whether taken alone or in combination, and the rejection under 35 U.S.C. § 103(a) of claims 4-5 should be withdrawn.

The Examiner rejected claims 9, 10, 11, 39, 40, and 41 under 35 U.S.C. § 103(a) as unpatentable over Parruck, Yin, Jung, and Vinnakota. Applicants respectfully traverse this rejection.

Claims 9, 10, and 11 depend from claim 1 and includes all of the feature recited therein including, among other things, "allocating each received packet to at least one arrival queue, wherein each received packet comprises an internet protocol packet." Claims 39, 40, and 41, although of different scope, include features similar to the ones

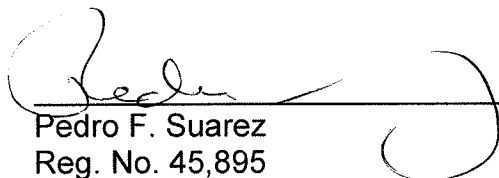
noted herein. For at least the reasons noted above with respect to claim 1, neither Parruck, Yin, nor Jung discloses or suggests the above-noted features. Moreover, although Vinnakota discloses a packet processor using digital signal processing, it fails to cure the deficiencies of Parruck, Yin, and Jung. Therefore, claims 9, 10, 11, 39, 40, and 41 are allowable over Parruck, Yin, Jung, and Vinnakota, whether taken alone or in combination, and the rejection under 35 U.S.C. § 103(a) of claims 9, 10, 11, 39, 40, and 41 should be withdrawn.

CONCLUSION

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant is concurrently filing herewith a Petition for a one-month extension of time with the requisite fee. Authorization for a credit-card payment of the filing fees mentioned above is submitted herewith. No additional fees are believed to be due, however the Commissioner is authorized to charge any additional fees or credit overpayments to Deposit Account No. 50-0311, reference No. 39700-638N01US/NC40070US. If there are any questions regarding this reply, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

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